

FILED  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK  
MAR 30 2012

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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DAMIEN ADAMS,

Petitioner,

- against -

DALE ARTUS and THE ATTORNEY GENERAL  
OF NEW YORK,

Respondents.  
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**TOWNES, United States District Judge:**

BROOKLYN OFFICE

**MEMORANDUM & ORDER**

09-CV-1941 (SLT) (VVP)

Damien Adams (“Petitioner”) filed the instant *pro se* petition for a writ of habeas corpus (“Petition”) on May 4, 2009 pursuant to 28 U.S.C. § 2254 for purposes of challenging his conviction for first-degree manslaughter following a jury trial in the New York State Supreme Court. On December 4, 2009, this Court referred the matter to Magistrate Judge Viktor V. Pohorelsky for a report and recommendation (“R&R”). Subsequently, Petitioner filed a motion to amend the Petition on January 7, 2010 to add a claim for ineffective assistance of appellate counsel. On February 24, 2012, Judge Pohorelsky issued an R&R recommending that this Court deny the Petition and the motion to amend. This Court adopts Judge Pohorelsky’s R&R in its entirety.

A district court judge may designate a magistrate judge to hear and determine certain motions pending before the Court and to submit to the Court proposed findings of fact and a recommendation as to the disposition of the motion. *See* 28 U.S.C. § 636(b)(1). Within fourteen days of service of the recommendation, any party may file written objections to the magistrate’s report. *See id.* Upon *de novo* review of those portions of the record to which objections were made, the district court judge may affirm or reject the recommendation. *See id.*

The Court is not required to review the factual or legal conclusions of the magistrate judge as to those portions of the R&R to which no objections have been made. *See Thomas v.*

*Arn*, 474 U.S. 140, 150, 106 S. Ct. 466, 88 L. Ed. 2d 435 (1985). In addition, failure to file timely objections may waive the right to appeal this Court's order. *See* 28 U.S.C. § 636(b)(1); *Small v. Sec'y of Health & Human Servs.*, 892 F.2d 15, 16 (2d Cir. 1989).

In the instant case, objections to the R&R were due within fourteen days of receipt of the R&R, which was mailed to Petitioner on February 24, 2012. To date, no objections have been filed with this Court. Upon review, this Court affirms and adopts the R&R of Judge Pohorelsky in its entirety. Accordingly, Petitioner's motion to amend the petition and his petition for a writ of habeas corpus are denied.

**SO ORDERED.**

s/ SLT

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SANDRA L. TOWNES  
United States District Judge

Dated: *March 29*, 2012  
Brooklyn, New York